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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,894	03/16/2001	Shinji Shibata	09952/055001/55817-US-MRB	6681

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EXAMINER
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CORSARO, NICK

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/810,894

Applicant(s)

SHIBATA, SHINJI

Examiner

Nick Corsaro

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.5.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 03/08/2004 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance of document number 2-57646, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. The other references have been considered and the IDS placed of record in the file, however the 2-57646, reference has not been considered.

### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "RADIO COMMUNICATION DEVICE CAPABLE OF GENERATING MELODY PATTERNS VIA SOUND, TACTAL AND VISUAL NOTIFICATIONS".

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirai et al. (6,411,198) in view of Jones et al. (6,337,972).

Consider claim 1, Hirai discloses a radio communication device (see col. 1 lines 53-60). Hirai discloses a first notifying device that notifies of an incoming call by generating a ringer melody (see col. 10 lines 12-46, and col. 14 lines 1-8, where Hirai is discussing a melody sounded to indicate an incoming call). Hirai disclose said ringer melody including a plurality of melodic lines (figure 2), (see col. 14 lines 7-9, col. 9 lines 47-67, col. 10 lines 1-46, col. 11 lines 5-37, and col. 12 lines 7-67, where Hirai is discussing selecting melodies that will be played where melodies include one or more lines of combinations of lines or melodies). Hirai discloses a second notifying device that notifies of said incoming call, said second notifying device notifies of said incoming call based on one of said melodies (see col. 12 lines 25-67, col. 13 lines 28-50, and col. 14 lines 1-67, where Hirai discusses that a second notifying device such as the ringer, buzzer, backlight, or vibrator, can follow the same or a different one of the patterns).

Hirai does not specifically disclose the action is based on one of said melodic lines. Jones teaches the action is based on one of said melodic lines (figure 2, figure 3) (see col. 2 lines 50-65, col. 3 lines 64-67, and col. 3 lines 20-67, where Hirai discusses and shows the melody played is one line of Beethoven's 5<sup>th</sup> symphony).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Hirai, and have the action based on one of said melodic lines, as taught by Jones, thus allowing users to program in there own melodies, as discussed by Jones (col. 1 lines 5-40).

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Consider claim 2-4, Hirai discloses said second notifying device includes a vibrator, a light emitter, or a display, and a vibration, light emitter, or display control that controls said vibrator, light emitter, or display wherein said vibrator, light emitter, or display is controlled by said control to vibrate, emit light, or display, based on said one of said melodies (see col. 12 lines 13-67, col. 13 lines 28-33, and col. 9 lines 48-60). Hirai does not specifically disclose the action is based on one of said melodic lines. Jones teaches the action is based on one of said melodic lines (figure 2, figure 3) (see col. 2 lines 50-65, col. 3 lines 64-67, and col. 3 lines 20-67, where Hirai discusses and shows the melody played is one line of Beethoven's 5<sup>th</sup> symphony). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Hirai, and have the action based on one of said melodic lines, as taught by Jones, thus allowing users to program in there own melodies, as discussed by Jones (col. 1 lines 5-40).

Consider claim 5, Hirai discloses selector that selects one of said melodies, wherein said second notifying device notifies of said incoming call based on said one of said melodies by said selector means (see col. 9 lines 47-60, col. 10 lines 1-46, col. 1 lines 5-37, and col. 12 lines 25-65). Hirai does not specifically disclose the action is based on one of said melodic lines. Jones teaches the action is based on one of said melodic lines (figure 2, figure 3) (see col. 2 lines 50-65, col. 3 lines 64-67, and col. 3 lines 20-67, where Hirai discusses and shows the melody played is one line of Beethoven's 5<sup>th</sup> symphony). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Hirai, and have the action based on one of said melodic lines, as taught by Jones, thus allowing users to program in there own melodies, as discussed by Jones (col. 1 lines 5-40).

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*Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(6,359,550), Brisebois teaches two notification devices using melodies.

4. Any inquiry concerning this communication should be directed to Nick Corsaro at telephone number (703) 306-5616.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung, can be reached at (703) 308-7745. Any response to this action should be mailed to:


Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth, Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 customer Service Office whose telephone number is (703) 306-0377.



Nick Corsaro

**NICK CORSARO**  
**PATENT EXAMINER**

Primary